



6712-01

FEDERAL COMMUNICATIONS COMMISSION

47 CFR Part 11

[EB Docket No. 04-296; FCC 11-136]

Review of the Emergency Alert System

AGENCY: Federal Communications Commission.

ACTION: Final rule.

SUMMARY: In this document, the Commission amends its rules governing the Emergency Alert System (EAS) rules to extend the deadline for EAS Participants to be able to receive Common Alerting Protocol (CAP)-formatted EAS alerts to no later than June 30, 2012. This is intended to provide EAS Participants with time to comply with any new CAP-based revisions to the Commission's rules.

DATES: Effective **[INSERT DATE OF PUBLICATION IN THE FEDERAL REGISTER]**.

FOR FURTHER INFORMATION CONTACT: Lisa Fowlkes, Deputy Bureau Chief, Public Safety and Homeland Security Bureau, at (202) 418-7452, or by email at Lisa.Fowlkes@fcc.gov.

SUPPLEMENTARY INFORMATION: This is a summary of the Commission's Fourth Report and Order in EB Docket No. 04-296, FCC 11-136, adopted on September 15, 2011, and released on September 16, 2011. The full text of this document is available for inspection and copying during normal business hours in the FCC Reference Center (Room CY-A257), 445 12th Street, SW., Washington, DC 20554. The complete text of this document also may be purchased from the Commission's copy contractor, Best Copy and Printing, Inc., 445 12th Street, SW., Room, CY-B402, Washington, DC 20554. The full text may also be downloaded at: www.fcc.gov.

1. This Fourth Report and Order is one of two orders in which the Commission will take additional steps to integrate CAP into its part 11 rules governing the EAS. In this Fourth Report and Order, the Commission amends § 11.56 of its EAS rules to require EAS Participants to be able to receive CAP-formatted EAS alerts as required by part 11 no later than June 30, 2012. The Commission anticipates that it will adopt the CAP-based revisions to its part 11 EAS rules in a subsequent order stemming from its Third Further Notice of Proposed Rulemaking (Third FNPRM), 76 FR 35810-01, June

20, 2011, in this docket sufficiently in advance of June 30, 2012, to allow EAS Participants ample time to comply with the new part 11 rules. In this subsequent order, the Commission will also address the many remaining non-CAP related issues raised in its Third FNPRM. This amendment of § 11.56 of the Commission's rules moots the Petition for an Expedited Further Extension of the 180-Day "Cap" Compliance Deadline, EB Docket 04-296 (filed July 29, 2011) (Joint Petition) filed jointly by forty-six state broadcasters associations, NAB, NCTA, the Society of Broadcast Engineers, ACA, the Association for Maximum Service Television, National Public Radio, the Association of Public Television Stations, and the Public Broadcasting Service for extension of the 180-day CAP compliance deadline.

2. In the Third FNPRM, the Commission noted that some equipment vendors may be marketing equipment – intermediary devices – that connects in some fashion with previously certified EAS equipment to allow that equipment to receive CAP-formatted alerts in the legacy EAS format. The Commission sought comment on a number of issues regarding these devices, including whether they must be certified under current EAS rules and whether they satisfy the Commission's 2007 CAP-related requirements. Although the Commission intends to address these issues in a subsequent order, it notes that, based on the record, it appears that some EAS Participants may have purchased such equipment. In this Fourth Report and Order, the Commission reminds EAS Participants that equipment that meets the definition of an encoder or a decoder under Commission rules must be certified under § 11.34 of the Commission's current rules. In addition, equipment used to receive CAP-formatted EAS alerts must, at a minimum, comply with the CAP requirements the Commission adopted in the Second Report and Order in this docket. While the Commission does not decide today whether intermediary devices comply with these requirements, it is unclear whether any equipment that does not meet these current baseline requirements will be able to satisfy any CAP-related rules we may adopt in the future. Consequently, the Commission urges EAS Participants that have purchased or are considering purchase of any type of EAS equipment to verify with manufacturers and/or vendors that the equipment complies with current FCC rules.

I. PROCEDURAL MATTERS

A. Paperwork Reduction Act Analysis

3. This document contains no modified information collection requirements subject to the Paperwork Reduction Act of 1995, Public Law 104-13.

B. Congressional Review Act

4. The Commission will send a copy of this Fourth Report and Order in a report to be sent to Congress and the Government Accountability Office pursuant to the Congressional Review Act (“CRA”), see 5 U.S.C. 801(a)(1)(A).

II. Final Regulatory Flexibility Analysis

5. The Regulatory Flexibility Act (RFA) requires that agencies prepare a regulatory flexibility analysis for notice-and-comment rulemaking proceedings, unless the agency certifies that “the rule will not have a significant economic impact on a substantial number of small entities.” In this Fourth Report and Order, we have revised the rules to extend the date by which EAS Participants must be able to receive CAP-formatted EAS alert to June 30, 2012. We hereby certify that this rule revision will not have a significant economic impact on a substantial number of small entities, because the action merely maintains the status quo regarding CAP compliance. The Commission will send a copy of this Fourth Report and Order, including this certification, to the Chief Counsel for Advocacy of the Small Business Administration. In addition, the Fourth Report and Order (or a summary thereof) and certification will be published in the Federal Register.

III. ORDERING CLAUSES

6. Accordingly, IT IS ORDERED that, pursuant to sections 1, 2, 4(i), 4(o), 301, 303(r), 303(v), 307, 309, 335, 403, 624(g), 706, and 715 of the Communications Act of 1934, as amended, 47 U.S.C. 151, 152, 154(i) and (o), 301, 303(r), 303(v), 307, 309, 335, 403, 544(g), 606, and 615, this Fourth Report and Order IS ADOPTED;

7. IT IS FURTHER ORDERED that part 11 of the Commission’s rules, 47 CFR part 11, is

amended. The Order shall become effective **[INSERT DATE OF PUBLICATION IN THE FEDERAL REGISTER]**;

8. IT IS FURTHER ORDERED that the Joint Petition for Further Extension of the CAP Compliance Deadline is dismissed as moot;

9. IT IS FURTHER ORDERED that the Commission's Consumer and Governmental Affairs Bureau, Reference Information Center, SHALL SEND a copy of this Fourth Report and Order, including the Final Regulatory Flexibility Analysis, to the Chief Counsel for Advocacy of the Small Business Administration.

List of Subjects in 47 CFR Part 11

Radio, Television.

FEDERAL COMMUNICATIONS COMMISSION

Marlene H. Dortch
Secretary.

For the reasons discussed in the preamble, the Federal Communications Commission amends 47 CFR part 11 as follows:

PART 11 – EMERGENCY ALERT SYSTEM (EAS)

1. The authority citation for part 11 continues to read as follows:

Authority: 47 U.S.C. 151, 154(i) and (o), 303(r), 544(g) and 606.

2. Revise § 11.56 to read as follows:

§ 11.56 EAS Participants receive CAP-formatted alerts.

All EAS Participants must be able to receive CAP-formatted EAS alerts as required by this part no later than June 30, 2012.

[FR Doc. 2011-33154 Filed 12/23/2011 at 8:45 am; Publication Date: 12/27/2011]